

App. No.: 09/932,664  
Amdt. Dated: 03/20/2006  
Off. Act. Dated: 12/22/2005

### **REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested in view of the discussion presented herein.

1. **Rejection of Claims 1-45 under 35 U.S.C. § 102(e).**

Claims 1-45 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bowman et al. (U.S. Patent Publication No. 2002/0174431), and referred to herein as "Bowman".

After carefully considering the grounds for rejection, the Applicant responds as follows.

(a) **Claims 1, 15, 28, 33, 39 and 45.** Claims 1, 15, 28, 33, 39 and 45 are the independent claims within this group of claims.

In the rejection, Examiner rejects Claims 1-5, 9-18, 22-28, 33-45 on the basis of the material used to support a rejection of Claim 28. Applicant respectfully objects and asserts that not treating these claims on their respective merits is improper. These claims are not duplicative of one another and recite disparate elements that must be considered individually on their own merits as required by MPEP examination practice.

#### **Not All Claim Limitations are Taught**

Bowman discusses in the background of the specification a number of supposed 'drawbacks' with using a timestamp-based approach, and even mentions the concept of the Sony data marking device with a view toward teaching away from it. In describing these devices within paragraph [0003] Bowman states: *"However, these devices digitally timestamp the time the song or program was heard but do not identify the song"*. Bowman goes on in paragraph [0004] to discuss what he believes is another drawback "The listener still has the task of scanning through multiple playlists of the various radio stations and must guess the title and/or artist of the song of interest." At the end of the background Bowman opines that: *"It would be highly desirable to have a method and a system for retrieving broadcast related information in real time and without requiring the user/listener to scan through broadcast programming playlists to*

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*find interested song of program or program title".*

It is thus expected that the system of Bowman would be different from that of the timestamp based devices to which it teaches away from. It is clear that Bowman describes a device with "*automatic identification*"; refer to Summary of Invention in paragraph [0008]. This is further made clear in paragraph [0009], wherein it plainly states: "*...the user inquiry references a time and a date of a broadcast and a station identifier of the transmitted broadcast segment*" (emphasis added). One of ordinary skill in the art will appreciate that the 'station identifier' of Bowman is synonymous with a frequency corresponding to said content that is broadcast.

However, in contrast to the teaching of Bowman, independent claim 28 recites a network interface configured to "*transmit a search request corresponding to a marked data, or information about the marked data, wherein said marked data indicates a time and which represents content that is broadcasted at said time and wherein said search request is independent of a frequency corresponding to said content that is broadcasted*" (emphasis added). This discloses a number of elements which are not found in the Bowman reference. First, it is a search request, which is contrary to Bowman, which asserts it has no need to have the user search on the network side because the marked data is fully identified and only needs be retrieved. Second the mark indicates a time, NOT a time and a station identifier. Third, the claims explicitly recites that the search request is "*independent of a frequency*", which can be equated also to being independent of any station identifier. Accordingly, it is seen from the above discussion that numerous limitations are found within this one element of Claim 28 which are not met by the Bowman reference. Supporting *Prima Facie* obviousness requires that every claim limitation be taught by the supporting reference, however, this requirement has not been met.

Irrespective of the above shortcomings of the rejection of Claim 28, the independent claims of the application recite other aspects which are not found in the Bowman reference. One important aspect is that of allowing a user to search through

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the music clips which are bookmarked by other users. This is brought out in Claim 1 as: "...searching other user playlists within said user database in response to said search request and locating data marks or associated music clip information that fulfills the conditions of said search...". Similar wording is found in the other independent claims, while amendments to Claims 28 and 33 recite this aspect therein with enhanced particularity.

The above limitation of searching the playlists of other users is not considered anywhere in the rejection of any of the claims within the application. The relied-upon reference of Bowman provides no description along these lines.

It is well settled that for anticipation under 35 USC 102, the anticipating reference must show all the elements of the claim. As the apparatus of Bowman does not include searching through the playlists of other users, as well as other aspects, it is improperly applied against Claims 1, 15, 28, 33, 39 and 45 and their progeny.

Therefore, as the Bowman reference does not provide sufficient grounds for an anticipation rejection, Applicant respectfully requests that these grounds for rejection be withdrawn and that Claims 1, 15, 28, 33, 39 and 45, and the claims which depend therefrom, and the application be allowed to issue.

(b) Claims 2-14, 16-27, 29-32, 34-38 and 40-44. Claims 2-14, 16-27, 29-32, 34-38 and 40-44 are dependent claims which are progeny of independent claims described above. The dependent claims should be considered *a fortiori* allowable in view of their dependence from independent claims which have been shown to be novel and thus not anticipated by the relied-upon reference.

Although these dependent claims should be considered allowable based on their relation to a novel base claim, many of these claims provide their own grounds for avoiding the Bowman reference, the following being provided by way of example.

Claim 5. Claim 5 depends from independent Claim 1. No support is provided for indicating the selection of said marked data with a search command as recited in Claim 5. The rejection of this claim is lumped with Claim 28, with no separate grounds of

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rejection being specified, although this claim describes an element not found in base Claim 1.

Claim 6. Claim 6 depends from dependent Claim 5 above, which depends from independent Claim 1. Claim 6 further describes additional limitations for an embodiment of indicating the selection of marked data with the search command, as recited in Claim 5. In support of the rejection, it is argued that Bowman teaches "*a drag and drop operation of an icon representative of said marked data displayed on said user terminal to an icon representative of said search request (parg. 0024)*".

However, paragraph [0024] of Bowman teaches nothing in relation to an indication of selecting the marked data in the search request, but instead discusses the user entering the frequency or call sign from a portable device with a keypad. A GUI is discussed in relation to entering station information and displaying call signs from which the user can select.

Claims 7 and 8. Claims 7 and 8 depend from Claim 6, Claim 5 and independent Claim 1. Again the content of these claims which modifies the concept of interceding claims is being improperly considered separately from those teachings.

Similar shortcomings arise with regard to the rejection of a number of the dependent claims within the application.

2. Obviousness Considerations of Claims 1-45 under 35 U.S.C. §103.

Nor would the subject matter of Claims 1-45 be obvious to a person having ordinary skill in the art in view of Bowman. Nothing within the Bowman reference provides suggestion, motivation, or incentive for allowing a first user to search for music clip information from the playlists of other users. Specifically, Bowman neither addresses the problem, nor suggests a solution which relates to searching the playlists of other users. Furthermore, Bowman can be considered to teach away from this extended searching by the user as it eschews the search process at the network side altogether, in deference to requiring the user to register the broadcast frequency or call sign on a handheld data entry device as part of capturing the bookmark. Bowman

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speaks of the information for each bookmark being automatically retrieved (refer to FIG. 2 blocks 206-208; paragraphs [0006], [0008], [0016], [0025] and so forth), the search of Bowman is only a retrieval step.

Bowman provides no suggestion, teaching or motivation for searching the playlists of other users, and teaches away from that type of searching. In addition, there are other aspects of the claims that are not taught by the Bowman reference. Therefore, since a person having ordinary skill in the art would NOT find it obvious to modify the bookmark retrieval system of Bowman to correspond to that described in the Applicant's claims, Claims 1-45 recite structure which is patentable over the cited reference for purposes of 35 U.S.C. § 103.

3. Amendment of Specification.

The specification was amended to correct typographical errors detected when preparing a response to this Office Action; no new matter has been added in these amendments. Applicant apologizes for any inconvenience that these errors may have caused Examiner.

4. Amendment of Claims 28 and 33.

The following claims were amended to clarify and to further focus the claims of the invention. The support for these amendments is given below.

Claims 28 and 33. Independent Claims 28 and 33 were amended to recite with particularity the relation of a first user with other users and how the system is configured for having the first user access music clip information from the playlists of other users, as clearly recited in Claims 1, 15, 39 and 45, and discussed in the specification including page 3, lines 16-25.

5. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made and accompanying traversing remarks provided above, the Applicant has made these amendments in order expedite allowance of the currently pending subject matter. However, the Applicant does not acquiesce in the original ground for rejection with respect to the original form of these

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claims. These amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments. The Applicant reserves the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

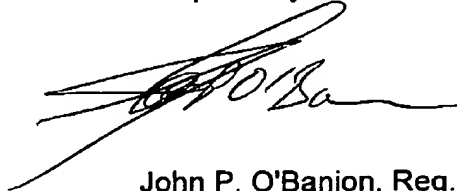
6. Conclusion.

Based on the foregoing, Applicant respectfully requests that the various grounds for rejection in the Office Action be reconsidered and withdrawn with respect to the discussion presented herein, and that a Notice of Allowance be issued for the present Application to pass to issuance.

In the event any further matters remain at issue with respect to the present Application, Applicant respectfully requests that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this Application.

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Respectfully submitted,



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